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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003257

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TAGS: ECON EPET IZ KJUS KCOR PGOV EINV PBTS

SUBJECT: DPM SALIH'S ENERGY RETREAT ADVANCES HYDROCARBON
LAW CONSENSUS

REF: BAGHDAD 03069

Classified By: Charge d'Affaires Daniel V. Speckhard for Reasons 1.4 (b)
) and (d).

1.(C) Summary: In an August 27 meeting with the Charge D'Affaires (CDA), Iraqi Deputy Prime Minister (DPM) Barham Salih described progress made towards consensus on a national hydrocarbon law. He admitted that the draft law proposed by the Kurdistan Regional Government (KRG) and the revised Ghadban draft adopted by the Ministry of Oil (MoO) are "diametrically opposed" (reftel). After three days of discussion during his Energy Committee Retreat, the DPM asserted that the primary point of contention relates to contracting authority. The KRG asserts that it can and should be able to enter into contracts for new production and exploration without approval by the central government. Salih told us that he would discourage the KRG from pursuing its ambitious agenda for presenting a draft regional hydrocarbon law to the Kurdistan Region's Parliament in September to allow more time for consensus to be reached on a national law. He pointed out that he would need Ambassador Khalilzad's support in strongly conveying this message to the Kurds. He stated that over the course of the retreat, the Committee had on some key principles for national hydrocarbon legislation, though he acknowledged that the details would still need to be worked out. The DPM welcomed the CDA's offer of technical assistance as soon as these general principles have been agreed upon. End Summary.

CLOSING THE GAP: COMPROMISE ON REVENUE MANAGEMENT,
POLICYMAKING, INOC

2.(C) In an August 27 meeting with the CDA, Deputy Prime Minister (DPM) Barham Salih described progress made towards consensus on a national hydrocarbon law. Salih told the CDA that agreement was reached by the Energy Committee which he chairs on having all hydrocarbon revenues collected and redistributed by the central government. The members of this Committee are the Ministers of Oil, Finance, Electricity, Trade, Planning and Developmental Cooperation, Justice, the Governor of the Central Bank, the President of the South Oil Company, and the Kurdish Minister of Natural Resources. He said that, even though the Constitution left open the question of how new fields would be handled, participants agreed that all revenue would be shared and distributed in a transparent way on the bases of "needs" and population. (Note: Article 112 of the Constitution specifies that revenues from present fields are to be distributed fairly proportional to population distribution, with an allotment for a fixed period for damaged regions, to ensure balanced development. End Note.)

3.(C) The Committee also agreed that Iraq's energy policy

should be set by a national entity, such as a Supreme Oil Policy Committee. (Note: The issue of veto power for the regions was not addressed. End Note.) This body would determine such things as production targets, infrastructure investment, and resource development strategies. Members might include Cabinet members and industry experts (the latter appointed for a minimum of five years to provide continuity across different government administrations). The Ministry of Oil (MoO) would take on a regulatory role, but no longer have operational responsibilities. These responsibilities would instead fall to operating companies, both regionally and functionally based companies. Salih described some debate about the need for a national operating company. Minister of Oil Husayn al-Shahristani advocated reconstituting the Iraqi National Oil Company (INOC), as laid out in the revised Ghadban draft. However, the DPM said there was still some debate on whatever this was needed. (Note: The rights of the INOC with respect to exploration and development will require additional debate. End Note.)

CONTRACTING CONTROVERSY AND LEGITIMATE KRG CONCERNS

4.(C) Even after three days of discussions, participants reached no agreement on the issue of contracting authority for development of new fields. Those arguing that the regions could independently sign contracts for new production and exploration would not consent to the compromise that contracts negotiated by regional entities would need to be presented to the national policymaking entity for approval based on pre-determined standards. In DPM Salih's opinion, Baghdad should be required to ratify , but within the framework of certifying the contracts meet the agreed

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standards. He also acknowledged, however, the concerns of the Kurds) the primary opponents of central contracting authority) regarding the political agendas that could influence the central approval process.

5.(C) Kurdish concerns notwithstanding, Salih recognized that the KRG plan to present their draft regional law to the Kurdistan Region's Parliament in September could undermine the process of establishing a national law. DPM Salih said that he would discourage the KRG from vigorously pursuing this schedule, but said that he would need the Ambassador to convey this message clearly to the KRG as well.

COMMENT

6.(C) Salih seemed pleased with the progress made at the retreat, commenting that the "framework" for the national law already had several key agreed upon principles, but he also emphasized that the details would need to be worked out later. This statement corresponds with Salih approach of avoiding drafting the law until the principles are agreed upon by the participants. The Charge offered technical assistance during the detailed drafting stage of the process.

Salih did not offer a possible timeline for finalizing a draft national law. Many of the items DPM Salih volunteered as areas of agreement had already been laid out in the Constitution, so the Committee was essentially expressing support for that document. The KRG-proposed national law is more sophisticated and professionally drafted, but it is unclear which of the two drafts on the table - the KRG or MoO proposal - would be used as the basis for further negotiation or whether a new draft might emerge. DPM Salih was careful not to express support for particular proposals debated at the retreat, but suggested that the direction promoted by the KRG draft national legislation could be used to the advantage of all of Iraq in terms of encouraging market liberalization.

SPECKHARD